

REMARKS

Claims 3 and 12 have been rejected under 35 USC 103(a) as being unpatentable over Gallucci et al in view of Sakaki et al. Claims 16-19 have been rejected under 35 USC 103(a) as being unpatentable over Sakaki et al in view of Gallucci et al. Applicants wish to point out that Claims 1 and 4-7 also are pending but are not included in the above-discussed rejections. Applicants respectfully traverse the grounds of rejection recited in the final rejection and urge reconsideration in light of the following comments.

In the outstanding Office Action, the Examiner states that Applicants must show that the third and fourth co-inventors of the present application are also co-inventors of the disputed subject matter shown in U.S. Patent No. 6 364 422. A Declaration Under 37 CFR 1.132 was filed on October 10, 2003 in which three of the inventors of the present application stated that they were the true inventors of the thermoplastic resin composition containing the thermoplastic elastomer and tungsten powder disclosed in U.S. Patent No. 6 364 422. The fourth inventor of the present application was not able to sign the Declaration because he was hospitalized and quarantined. Mr. Haruta is still in the hospital but taken out of quarantine so that it was possible to get him to execute a Declaration Under 37 CFR 1.132. Enclosed herewith is a Declaration Under 37 CFR 1.132 signed by Mr. Haruta in which he also unequivocally states that he, along with the three prior declarants, are the true inventors of the thermoplastic resin composition containing a thermoplastic elastomer and tungsten powder disclosed in U.S. Patent No. 6 364 422. In light of the two Declarations Under 37 CFR 1.132 of record in the present application, it is respectfully submitted that the Sakaki et al patent is not available as a reference under 35 USC 102 and 35 USC 103 against the present application.

With respect to the Gallucci et al reference, the Examiner has pointed out that the present application does not

claim priority to JP 11-95712 and, as such, Applicants cannot rely on the filing date of this application to overcome the Gallucci et al reference. However, Applicants wish to point out to the Examiner that Applicants can use acts conducted in Japan to show that the present invention was arrived at by the Applicants prior to the filing date of Gallucci et al. Even though Applicants cannot claim the benefit of JP 11-95712, the English translation shows that the inventive entity of the present invention and that of JP 11-95712 are the same and that Applicants have reduced to practice the claimed subject matter of the present invention at least as of the filing date of April 2, 1999. Therefore, Gallucci et al is not available as a reference against the present application under 35 USC 102.

If the Examiner feels that there are any outstanding matters left to be resolved in the present application, he is respectfully requested to contact the undersigned in order that they may be dealt with.

Respectfully submitted,


Terryence F. Chapman

TFC/smd

FLYNN, THIEL, BOUTELL	Dale H. Thiel	Reg. No. 24 323
& TANIS, P.C.	David G. Boutell	Reg. No. 25 072
2026 Rambling Road	Ronald J. Tanis	Reg. No. 22 724
Kalamazoo, MI 49008-1631	Terryence F. Chapman	Reg. No. 32 549
Phone: (269) 381-1156	Mark L. Maki	Reg. No. 36 589
Fax: (269) 381-5465	Liane L. Churney	Reg. No. 40 694
	Brian R. Tumm	Reg. No. 36 328
	Steven R. Thiel	Reg. No. 53 685
	Sidney B. Williams, Jr.	Reg. No. 24 949

Encl: Declaration Under 37 CFR 1.132
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